

## DORSEY & WHITNEY

*A Partnership Including Professional Corporations*

2200 FIRST BANK PLACE EAST  
MINNEAPOLIS, MINNESOTA 55402  
(612) 340-2600

TELEX: 29-0605  
TELECOPIER: (612) 340-2868

EDWARD J. SCHWARTZBAUER  
(612) 340-2825

US EPA RECORDS CENTER REGION 5



515751

880 WEST-FIRST NATIONAL BANK BUILDING  
ST. PAUL, MINNESOTA 55101  
(612) 227-8017

P. O. BOX 848  
340 FIRST NATIONAL BANK BUILDING  
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(507) 288-3156

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8 THIRD STREET NORTH  
GREAT FALLS, MONTANA 59401  
(406) 727-3632

SUITE 675 NORTH  
1800 M STREET N.W.  
WASHINGTON, D. C. 20036  
(202) 296-2780

30 RUE LA BOÉTIE  
75008 PARIS, FRANCE  
TEL: (1) 562 32 50

December 17, 1982

David Hird, Esq.  
Room 1535  
Environmental Enforcement Section  
Land & Natural Resources Division  
U.S. Department of Justice  
Washington, D.C. 20530

Stephen Shakman, Esq.  
Minnesota Pollution Control Agency  
1935 West County Road B2  
Roseville, Minnesota 55113

Allen Hinderaker, Esq.  
Popham, Haik, Schnobrich,  
Kaufman & Doty, Ltd.  
4344 IDS Center  
Minneapolis, Minnesota 55402

Re: U.S.A. v. Reilly Tar & Chemical Corporation  
(Superfund Grant for St. Louis Park)

Gentlemen:

Recent events suggest to us that it is advisable once again to write to you, and, through you, to your clients, concerning Federal and State government plans to expend large sums of money for additional studies and for other projects, some of which are outlined in Erica Dolgin's letter of July 22, 1982. You are familiar with our prior correspondence and other communications concerning measures proposed to deal with the St. Louis Park situation and I do not believe it necessary to re-state the contents of these communications.

It should be clear, however, that since at least the October 1980 meeting between Reilly Tar & Chemical Corporation ("Reilly"), Environmental Research & Technology, Inc. ("ERT"), an independent consulting firm, and representatives of the State of Minnesota, St. Louis Park and the United States Government, Reilly has been offering suggestions, supported by

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Messrs. Hird, Shakman and Hinderaker  
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technical information, concerning methods to manage the perceived problem in St. Louis Park. In response to Erica Dolgin's letter of July 22, 1982, Reilly offered to propose a comprehensive solution to the perceived problem.

We met on August 24 to discuss the July 22 letter and my reply. Subsequently, Reilly retained ERT to prepare a comprehensive solution report, which we originally expected to submit to the governmental bodies involved by December 31, 1982. This report will be delayed by a few weeks because ERT does not yet have all of the information which it needs to finish its report, some of which is data requested from the USGS, St. Louis Park and the PCA, but which has not yet been supplied.

In the meantime, the proposed cooperative agreement between the PCA and the EPA, which you expected to be signed within one week of our August 24 meeting, apparently has not been signed. Thus, it appears that the 1.9 million dollar grant which was to fund the measures proposed in the July 22 letter and in the draft cooperative agreement is not presently available.

We believe that the day is fast approaching when sensible but effective measures can be designed and implemented which will eliminate any drinking water problems in St. Louis Park. It is Reilly's desire to hasten that day. However, the delay in federal funding may prove to be an unanticipated benefit to the people of St. Louis Park. As indicated in my letter of September 17, we believe that the State/EPA approach in this case is piecemeal and unnecessarily expensive, and that a comprehensive consideration of the situation may well reveal that some of the steps being considered are unnecessary.

Accordingly, it is Reilly's position that none of the federal funds included in the \$1.9 million grant should be committed or expended and none of the steps described in the draft agreement should be implemented until after the ERT proposal has been thoughtfully considered and discussed by all parties. We suggest that you adopt this position as your own. Reilly will not be responsible for the cost of remedial measures undertaken without such full consideration and discussion and will not be responsible for steps which do not meet the test of cost-effectiveness or other criteria required by the National Contingency Plan, which became effective on December 10.

Yours very truly,

Edward J. Schwartzbauer

EJS:ml

cc: Mr. Paul Bitter  
All Attorneys of Record